THE REPRESENTATION OF THE CASE OF Sir JOHN LENTHALL, Knight, IN HIS LATE SUFFERINGS.

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IF the life of man could be wafted on in his voyage of this World, with a constant Gale of happinesse, we should love that too well, yet should bee unhappy in this, that wee should never be brought to a remembrance of our selves and condition, nor to a due acknowledgement of that supreame power in whose hands wee are, but as Chaffe before the Wind, to whose just and wise wil, we ought absolutely to resigne our selves, without murmuring or grudging. He drawes light out of darkenesse, and consolations out of afflictions. His corrections are instructions, which lesson my troubles taught mee, and my experience found in my late darke and sad condition, when my God was graciously pleased constantly to give me inward comfort in my unparralleld sufferings, when there was nothing but outward appearances of discomfort, there being risen up against me malicious and blacke mouthed adversaries formerly

merly Prisoners, who were for their mutinous behaviour while they were in Prison, sent by the Judges to Newgate, whose false tongues were dipped in the Poyson of Aspes, and yet they received encouragement and countenance from Mr. *Fountaine*, who (being advanced in his owne thoughts to a high place) should have preferred Justice before partiality and selfe ends, yet were Heavens dispensations soe wisely disposed, that these fiery trialls did purifie my Innocency, and make it appeare as I hope brighter. Their prosecutions against me, were beyond measure, violent malicious and bloudie. But their false accusations when they were filed, did onely polish truth and made it more splendid. They belched out the fowlest accusations that their owne wicked imaginations could devise or invent, hoping thereby, to make mee odious to all good and pious men: but their injustice could not obscure the Almighties justice, the bright beames whereof, dispersed the blacke Clouds of their hellish plots, and so displayed them to all mens eyes, and eares, that hee hath clothed them with shame, and establisshed (I trust) my innocency and credit with them that were Auditors and spectators.

Their calumnies were very fierce (and thats the way which malice thinkes the best to prevaile) and they raysed a triple accusation of a dangerous and horrid nature against me. First, the breach of publicke trust, which struck at my reputation and fortune.

fortune. The second, that of delinquency, which strooke at my being in the Common wealth, and the well being of my posterity. And the third, that grand one, of Murther, which did strike not onely at my life in this world, but at my happinesse in the world to come. Which accusations were most forcibly carried on, and injuriously countenanced.

But because every man cannot possibly bee satisfied of all particulars by generall rumor and report, I thought it charity to them, and justice to my selfe, faithfully and impartially to set downe all the passages of that cruell prosecution, which I shall doe, with all the truth and modesty, that a just vindication will permit.

If that malice which hath brought this affliction upon me, could have been contented with ordinary and legall prosecution; and if my estate and livelihood were the things onely in question, and my good name not sullied with infamous & filthy slanders, I should in all probability rather patiently have sate downe under my sufferings, then have beene induced to lay open my condition unto the world. But since I cannot but be of opinion, that many persons both of worth and conscience, content to rest in the first representations, may by this meanes bee brought to a just knowledge of the whole matter; and consequently bee reduced to the moderation of doing what is but just, and that

my good name (which to an honeſt man ought to bee dearer then life) may bee in ſome meaſure retrived; I could not but put downe as well the true circumſtances of my condition, as the violent and paſſionate proceedings of my proſecutors againſt me.

I have been theſe twenty three yeares together Marſhall of the (Kings Bench, now the) Upper Bench Priſon, by Letters Patents under the great Seale of *England*, wherein, as I am inwardly ſatisfied to have behaved my ſelfe uprightly and legally, ſo till this ſtorme overtooke me, I hope it was without infamy or reproach. But it is the misfortune of ſuch employments as mine, that wee muſt neceſſarily in doing our Offices, raiſe up to our ſelves Enemies. For it is ſo difficult, if not impoſſible, to carry our ſelves even between Creditor & Debtor, that there is no avoyding of it, but one of them will be diſſatisfied. For if the Debtor be either unruly, or unable to put in ſecurity, for his true impriſonment, & ſo kept ſafe, he ſtraight crieth out of Reſtraint & hard uſage; but if hee put in ſecurity, & lie in the Rules, or legally goe abroad about his occaſions with a Keeper, then does the Creditor crie out of too much liberty, & it may be files a Bill for an Eſcape. So that let a man carry himſelfe with all the care & circumſpection which is poſſible, he ſhall be ſure to meet with clamors & enemies; And theſe ſo much the more in regard that being perſons either in low condition, or decayed fortunes, they account it ſomewhat either of eaſe or pleaſure, to

revile or vex those whom they look upon as the instruments of their misfortunes.

After the dissolution of the former Parliament, then some persons did take upon them a power (by what authority or order I know not) to enquire into all matters concerning Prisons, and Keepers of Prisons, by vertue of whose power I was summoned to appeare before them, which I obeyed. But it was a wonder to me (who had been a faithfull servant to the Parliament in their most doubtfull and difficult times, and who had beene constantly in all their Commissions, and stucke to them thorowout, when others declined them) to see Mr. *Fountayne* in the Chayre, one of the most active for the late King, and one by whose power and interest at Oxford, my place was given away, for disobeying a Warrant of the late Kings, dated the 23. of November 1643. for the discharge of *William Cobb*. Yet humbly submitting (as it was my duty) to the Authority over mee, and withall weighing with my selfe the Right that all Governours have to call whom they please to their assistance; besides, hoping that Mr. *Fountaine* had manifested unto them his hatred to his former principles and courses; I, with all the submission I could, prepared my selfe to give the best satisfaction that lay in my power unto that Committee.

The Generall things they fell upon, were first, About the List of my Prisoners, a perfect and full Copy whereof I delivered in. Next, about the

Extent and Liberty of the Rules of the Prison, by which means (as was alleadged) there are many Escapes occasioned, and Creditors extreamly delayed, if not absolutely defrauded. In answer to this, I only sayd, That the Prison house being so little, as that it is not able to contain a fourth part of the Prisoners, my Predecessors in their severall times, and that alwaies by permission and appointment of the Judges, used to lodge them (having first taken security for their true imprisonment) in the houses about, and that they call the Rules: which as it avoides a grand inconvenience (for otherwise every perticular man must have a perticular Keeper which were a charge to him unsupportable, or else the Marshall of the Prison were to maintaine them, and so he should bee a loser by his office) so it brings this great advantage and security to the Creditor, that the security being double the debt, it is thereby strengthened, and the Creditor in better probability to recover his own. For if any escape be made, I am liable to pay the debt, and upon recovery had against mee at Law, I either resort to the security, or turne it over to the Creditour, by which meanes many have recovered their debts, which probably otherwise they had not done. But these bonds being of late doubted to bee within the Stat. 23. H 6. (though ever before held good and so often adjudged) many have under this pretence escaped, or violently broke Prison; and thereby both defrauded the Credi-

tors, and occasioned great damages to bee given against the Marshall.

And although I haue done nothing, but what by Law was formerly accustomed and justifiable, yet I desire a difference may bee made, betweene voluntary and involuntary escapes; that is to say, escapes happening either by my granting too much liberty, or by negligence, or connivence; and those which in despite of the strength of the Prison, and the care and dilligence of the watchmen, are oftentimes made by desperate Persons, groaning under their wants, and impatient of restraint: and therefore I appeale to all the Nation, whether there was yet ever any debt recovered against mee for an escape, which I haue not satisfied. And as I cannot bee denied the liberty of a true English man, to make my best defence, when I am impleaded at Law, which in many cases plentifully relieves me, as 3. Edw. 1. Cap. 3. 1. Edw. 2. Cap. 10. *Bonitons* case Cooke. 3. part. pa. 67. *Ridgemayes* case, Cooke. 3. Page. pa. 54. *Wesbies* case. So if it can bee proved that any escape hath beene wilfull in me, or that I ever tooke a penny of money for granting any illegall liberty, I shall bee content to suffer all that which the malice of my adversaries would inflict upon me.

Non is it enough to say that the best and most considerable Prisoners should bee put into the house,

house, for so the more insolvent should bee set at randome, and their debts by this meanes become desperate: for the security of the others (besides their owne reputation) renders them as safe in the Rules, as if they were close; and there is many a man that will rather be bound in a bond of 1000 l. for a mans true imprisonment, then be bound with him in a bond of 100 l. debt.

But when they came to descend into perticular matters, it was very strange to me, to see Mr. *Fountaine* (more like a feed Lawyer, or an enraged enemy, then a sober Judge) afford so much countenance to all Petitions and complaints that came in against me, to stretch matter further then by Law they would endure. And when I desired but Coppies of Petitions that I might bee the better enabled to make my defence, utterly to refuse mee, and put me to answer upon the place: which when I endeavoured to doe, as well as the smalnesse of the time, and my owne surprisall would permit me, I was sundry times reviled, many opprobrious speeches, both against my selfe and my neerest relations, were publickly uttered, without the least controle or check. The witnesses which I bought in order to my justification, were discountenanced; Mr. *Fountaine* in the meane time, privately commenting and glossing his own conceptions, as I have reason to conceive, and writing them downe, so that things seemed to bee carried

on

on (I will not say by designe or injustly) meerely in a manner to compasse my ruine. The Petitions and charges that came in, to looke on the number, were a great many, on the weight of them, a very few. Some of them are either so false, or inconsiderable, that they are not worth mentioning heere, as I have done otherwhere, some the very stating of my case, immediately detects the malice and impertinency. But since that there is one particularly insisted upon as a matter very horrid and ugly, I shall not forbeare to set it down, that by the estimate of this grand business, an account may be taken of the rest.

And the businesse stands thus:

One *John Guyet* was committed to the Upper Bench Prison Feb. 10. 1650 upon an Action of Trespasse at the suit of *Edmund Child*, but not upon Judgement or Execution. This *Guyet* broke the Prison house (hee being in close Prison, together with foure others) in the night time, having burned downe the window with hot irons, poysoned a fierce Mastiffe, and given some opiate medicin to the Watchman, wherewith he layd him in a dead sleepe all night; and by that meanes the sayd *Guyet* went away in the night time, by Ladders of Ropes, provided for that purpose, as is proved by many witnesses.

Thereupon *Child* brings his Action of the Case against Sir *John Lenthall* for 500 l. for the Escape; and at a Tryall at Guildhall had given him by the

Jury (who failed not to bee his friends at a dead lift) the whole money and damages 584 l. 13 s. 4 d. For reliefe of the verdict, I preferd a Bill in Chancery, to which he put in an unperfect answer, and sate in contempt. Hereupon I moved at the Roles for an Injunction to stop proceedings at Common Law, which the Master of the Rolls being satisfied that *Child* in equity ought to have no more of me then he could have recovered of *Guyet* at Common Law, and for that a man may lay an Action of 10000 l. and yet possibly not recover 100 l. & for that this was the onely course I had left, to make *Child* confesse what his debt really was; (hee having already in his answer confessed 100 l. was given by the verdict more then was due to him) the Injunction was granted, as well for these reasons, as that it had been the constant practise and rule of that Court, to grant Injunctions upon the like occasions. And whether I had not reason to seeke for reliefe in Chancery or no, let any man judge: For though there were abundance of equitable circumstances, which I could not make out at my tryall; yet by that (among other things) which I sayd before, the equity was very evident.

Nay this Case among others was referred by the Parliaments order of the ninteenth of *Ianuary* 1650. to the Justices of the Upper Bench, who upon hearing of the whole matter, declared me not in fault for the Escape, and the businesse therefore onely

 proper

for the Chancery: wherein being a Court of equity I was onely relieveable. For certainly the verdict was a strange one, and the oppression that lies upon mee by the meanes of it as heavy, and of as ill example, as can be possible.

This is the great businesse as to the execution of my Office; but because the rage of my enemies was not content to stay heere, but would strike at my life, as well as my livelihood, they have set abroach an old businesse voted scandalous by the Parliament many yeares agoe, and threatened to try mee for my life about it. The businesse stands thus. *George Smithson* was committed to the Upper Bench Prison *June* 13. 1637. where hee carried himselfe with such extreame disorder, that in the yeare 1640. hee was put into the common Goale, where hee was not onely so troublesome, but also so dangerous to the Prisoners, that they Petitioned for his removall. Hereupon I ordered him every night to bee put into the house which is set apart for unruly Prisoners: there continuing his old manners, hee was kept for some time, all which space he was fed with victualls sent from my own Table, and the Stewards of the house, had expresse order to take care that he should be constantly relieved. He died the 5 of *September* 1640. A Crowner sate upon him, a Jury was sworne, six Prisoners and six neighbours, who found that *Smithson* died by the visitation of God, and not otherwise, or by

any other meanes, as appeares by the Record.

I thanke God, I have this comfort yet left mee, that I can say, I find not in my heart to thirst after blood. And certainly these people, had they not beene blinded by their owne malice, and carried on by an extreame desire of my ruine, might have found out somewhat more probable to have employed their perjuries about, then for to say, that I should hazard, my salvation, my reputation, my life, the well being of my Wife and Children, and all this for the blood of a poore Lunaticke in Prison, whom till that time, I had never known, and from whose death I could draw no advantage.

The very same men that have reviv'd this complaint against me, before that Committee, brought the same complaint to the Parliament seven or eight yeares since. At which time, it was examined with all industry, scrutiny, earnestnesse, and integrity possible: all their owne examinations, and those of what witnesse they could produce, were taken, and severall persons were admitted by that Committee, in the name and behalfe of the City, to take notice of all proceedings. The Committee after a full hearing made the Report to the Parliament, that they found the accusations false, and prosecuted without cause; whereupon the 5 of *September* 1645 they voted, that these complaints were raised, and prosecuted, without

any

any ground at all, falsly, maliciously, and scandalously; and that *William Pendred*, *Edward Jenks*, *Hanna* his wife, *James Freez*, and *Stephen Prat*, were principall instigators and prosecutors of these proceedings; and doe deserve severe and exemplary punishment, and accordingly referred it to a Committee to consider what exemplary punishment were fit to be inflicted upon them.

Nor indeed did they vote it malicious, without ground: for *Freez* and *Jenks*, with one *Magick* (who was a great stickler in the business, though not so openly as the other) having been formerly Prisoners in the Upper Bench, and there very unruly and mischievous, the Judges did remove them to Newgate, which first kindled in them that malice, that hath severall times since attempted my life.

Notwithstanding all this, their wickednesse was so restlesse, that though they saw how little they were able to satisfie any just men of the ground of their complaints, they had the impudence, to renew the businesse againe at the Committee for the Armie, who also upon examination voted, *Aug.* 24. 1649. to the same purpose as the Parliament had formerly done; yet after all these repulses they have againe brought it to Mr. *Fountaines* Committee, where it seemes, it received fresh entertainement.

These are the two principall things, out of which with some other helps, (I will not say Additions of his owne) Mr. *Fountaine* hath stuffed his Papers, and at last hatched a Report. But however it is, though it be not fitting for me to say, that he carried himselfe there rather like an Adversarie then a Judge, so it should seeme hee hath a mind, by the carriage of this businesse, that men should find him turne from a Judge to a Solliciter. For this report of his, he very assidiously promoted to the Committee of the last Parliament, who upon the report ordered *July* 25. 1653. that I should appeare before the same Committee the next day, which was Tuesday following at 3 in the afternoone, and bring with mee a perfect list of the names, surnames, places of last abode, of all the Prisoners in custody, since the last list in print; together with all Bonds, Statutes, Judgements, Warrants of Atturney, to acknowledge Judgements to Creditors or others in their behalfe.

Heerupon I Petitioned the Committee, Teusday *July* 26. 1652. in regard I had not received their order till late the last night that I might have Coppies of Reports, and Petitions, and bee admitted to put in my defence in writing, or by my Counsell.

But being expresly commanded to attend the Thursday after, I accordingly did so, and carried in the list; but shewed them that I could not deliver

ver in the Bonds, by reason they were the onely security which enabled mee to performe severall trusts setled out of the Office, and the onely defence I had against all Escapes, sued, and to be sued. But the Committee pressed mee for a positive answer, whether I would deliver them or no, and though I Petitioned for it, would grant mee no longer time, then the next morning, for my positive answer; which I was to deliver to the Chairman by 10 of the Clocke. According to the appointment, next morning being Friday, I delivered a Letter to the Chairman, with a Paper of Reasons enclosed, Why I could not in discretion, and safety, deliver in the Bonds: both which, since I am so much concerned in them, for better satisfaction follow thus.

The Humble Answer of Sir John Lenthall *Knight, Marshall of the Upper Bench Prison.*

IN obedience to the commands of this Honourable Committee whose Persons and Power in all humility I ever shall have in high esteeme, I humbly offer, that the possibility that the Marshall of the Upper Bench hath for the preservation of such Prisoners as shall bee thereunto committed, (by reason of the smallnesse and unsafenesse of the Prison house) are onely such collaterall securities as by his owne industry and endeavours he can obtaine from persons that shall engage for the true

imprisonment

imprisonment of the Prisoners; which securities (howsoever good in Law as he humbly conceives) are onely perticularly belonging to himselfe, and to his owne private estate, and to such others as have likewise interest in those securities as well as himselfe, and no way concerning the publick interest, and by the Law of this Land are disposable by him, and such other perticular persons to whom they in right and equity doe belong, as any other personall securities to any other perticular person: that this present Parliament by their most pious and Religious Declaration lately set forth to the contentment of many thousands of this Nation, encourages him (with all thankefull acknowledgement) to assure himselfe that as the Parliament the higheſt and supreame power of the Nation, hath declared that they will be as tender of Lives, Estates, Liberties, Just rights and properties of all others, as they are of themselves and their posterities, so this honourable Committee who are a part of that honourable body will not be offended, if that hee the said Sir *John Lenthall* shall on his and the others behalfe, presume upon that honourable favour and grace which the said Parliament hath with such abundant care offered to the people, and therefore cannot in justice or equity deliver up such securities, which cannot bee usefull or advantagious unto him by the Law (as appeares by his former reasons humbly offered to the Committee and other grounds) if taken from

him

him without a particular Act of Parliament therein to relieve him. This being thus humbly offered without the least disregard to the power of this Committee, or disrespect to any of their persons, whom as becomes him in the place wherein God hath placed you, hee shall ever honour: this in all humility assuring himselfe of justice and equity according to the knowne right of Law and property.

July. 29. 1653. *IOHN LENTHALL.*

Reasons humbly offered and presented to the honourable Committee for Prisons and Prisoners, wherefore the Bonds and securities taken for the true imprisonment of Prisoners by Sir Iohn Lenthall *Knight, Marshall of the Upper Bench Prison, cannot safely bee delivered out of Sir* Iohn Lenthalls *hands.*

FOr that many of the said Bonds and securities upon Escapes made, are already delivered to Creditors, thereby to recover their Debts due from the Prisoners; and Sir *Iohn* stands engaged by his promise to deliver divers more.

II. For that assoone as the Prisoners shall take notice their Securities are out of Sir *John Lenthall's* power, they will and may make Escapes; and Sir *John* having no other way to restraine them, or to secure himselfe, other then by his Bond and securities, shall be left without remedy.

III. For that there now being severall Actions of Escape depending against Sir *John Lenthall*, amounting to 100 l. and severall recoveries had, Sir *John* hath no other meanes to secure his Person and Estate from the sayd Actions, and recoveries, but by the sayd Bonds and securities, many of which he hath delivered to his Atturnies to put in suit to bee indemnified from the sayd actions and recoveries.

IV. For that the sayd Bonds and securities are made to him in his name, for his indemnity, and suable onely by him and in his name, and can only be releated by him.

V. For that the sayd Bonds &c. are not forfeited or to bee sued untill after Escapes brought against Sir *John Lenthall*, so that if the same should be delivered out of his hands, the Prisoners, Creditors, Sureties, and Sir *John Lenthall*, may bee much damnified.

VI. For that upon the discharge of Prisoners

(which

(which is daily) the said Bonds and sureties are to bee delivered up, otherwise the sureties may bee endangered, and the Prisoner damnified upon his Counter-security given by him to his sureties.

VII. For that every Defendant hath liberty to crave Oyer of the condition of the Bond, upon which he is sued, before he plead; which Sir *John* not having in his hands to produce, will be delayed in his suit, or lose the benefit of his Actions.

VIII. For that the Bonds and securities taken for true imprisonment are Sir *John Lenthalls* undoubted right and property, which hee hopeth this honourable Committee will inviolably defend.

IX. For that the sureties, who are most of them tradesmen in this Citty, and live by their Credits, and will bee bound for a Prisoners true imprisonment, when they will not be bound with him for any money, when they shall perceive their names are published, and their bonds put to other uses then they intended them, will presently call in their Bonds, and that will bee a meanes to deter all others from being bound; which will prove a very great prejudice to the Creditor.

X. For that such bonds and securities, as are in Sir *Johns* hands were given to him by the Priso-

ner, and his ſurcties, by way of truſt, and upon condition that no uſe ſhall be made thereof but in caſe of Eſcape. And therefore the Priſoner having made no Eſcape, Sir *John* cannot without breach of truſt part with their ſecurities.

The morrow after, which was Saturday, the thirtieth of *July*, the houſe was made acquainted with this my anſwer, who thereupon made an Order for my commitment to the Serjeant at Armes, to anſwer to ſuch matters as ſhould bee objected againſt me; and another Order that Serjeant *Dendy* ſhould take the care and cuſtody of the Priſoners, which he accordingly did, my ſelfe being apprehended with a Warrant from Serjeant *Birkhead*, under which durance I continued, though I did humbly beſeech them in regard of the multiplicity of the troubleſome and entangled buſineſſe that lay upon mee, and for that I knew not what might bee brought out againſt mee, having had ſo many yeares to doe in a troubleſome Office, to bee pleaſed for to take off this reſtraint from mee, which certainly as I did not ſee what prejudice could ariſe from it, all my eſtate and liveliſhood lying at the ſtake, and it concerning me ſo neerly to make out my intereſt, ſo had it beene to me a deed of very great mercy and compaſſion. For as it would have beene a meanes to ſave mee from a great charge, which in the miſerable condition I was in, laye heavy upon mee, ſo would it have enabled mee to goe about to make ſuch de-

fence

fence against what might have beene brought against me, in behalfe of the Common wealth, as that I might thereby enjoy the benefit of the Law, and the freedome of a Native Englishman.

The great offences which they alledged against me as is before set down, being onely broched, but nothing proved, I did little expect such a restraint should have beene put upon me as to imprison my body, and to put Serjeant *Dendy* into the possession of my Office before I were heard or had leave to make my defence. And I cannot but say this, by the way, that it being my mis-hap to bee the miserable president in this case, in what doubt may it leave all other Officers who have acted according to the knowne Lawes of the Nation, (as I ever did,) and what security can they imagine to themselves, if upon every alteration they shall be called in question, for actions done by vertue of Lawes in force?

For my part, I doe aver that what I did in the execution of my Office, was nothing but what the Rules of the Court (to which I was a servant) permitted, what my predecessors had constantly practised, and what was not against the Lawes that then stood in force, and notwithstanding the overflowing malice of my adversaries, they could never prove any one thing against mee to the contrary.

standing thus committed to Sergeant Birkhead, for no cause expreſs, I could not finde that Sergeant *Dendy* who was poſſeſſed of my Office, had any bowels of mercy, for I received this letter from him, ſent to my Priſon: Sir, I acquainted the Committee the other day with your anſwer, with which they were ſo much diſſatisfied, as they reſolved to report your contempt to the Parliament, yeſterday they ſate not, but adjourned till this afternoone, till when I deſired they would forbeare acquainting the houſe, for that you promiſed you would doe your endeavour, of which if you give not a reall proofe by a returne of the bookes, wherin all the names of your Priſoners with their ſecurities, & place of abode are, it will be in vaine for you to think of ſecuring your ſelfe by a refuſall. Sir, the complaints of ſeverall Creditors undone by you, are very great, and our Law you know hath condemned many a man who thereupon hath ſuffered death, though but for the value of a ſheepe; therefore all things conſidered, it concernes you not to contemne any longer the Authority of the Parliament, who if incenſed, as you give them juſt cauſe to bee, neither you nor yours know what evill to them a day may bring forth. Sir, the Committee being to meet this afternoone betweene 2 and 3 a clock, I have ſent the bearer on purpoſe to receive your anſwer which is expected by

Your humble Servant, E. DENDY.

By

By this Letter it may be conceived in what a ſad condition I was, whereby it plainly appeares that Serjeant *Dendye* had never any intention to reſtore my Office, but ſtill to have kept it from me. To which purpoſe he uſed all his power to get the bookes and ſecurities into his hands; the bookes I delivered, but not the Bonds given to me for ſecurity of the Priſoners, which if I had given up, I had beene left naked of my defence of ſuites for Eſcapes, and I doubted, that many Bils might be filed againſt mee before the next terme, for Eſcapes made in Serjeant *Dendyes* time, as it afterwards happened, many declarations being brought againſt mee for them, for which if I had parted with my ſecurities, there might have beene ſo much recovered againſt me for his neglects, as might have ruined mee and my poſterity, which was the principall cauſe that I did not deliver them, and not diſobedience to the Parliament, to which I was prepared to proſtrate my ſelfe in all ſubmiſſion, not doubting but that they would in good time take into conſideration my innocencie, and withall the number of innocent perſons, that were involved in my ruine, and that they would ſo mixe their juſtice with mercie, that they would againe reſtore mee to my liberty, and full right. But the malice of Mr. *Fountaine* did hang ſtill as a darke Cloud over my head, from which I knew I was to expect a ſtorme, nor was I deceaved, for it was growne to that malicious and unchriſtian

height

height, that though when the accusation concerning the Murther of *Smithson* and others were heard, and eagerly examined before him and his fellowes of that Committee, he expressed upon a full and open hearing his opinion of the improbability of the charge and the untruth thereof. Yet not willing to let so much as a shadow passe, which might destroy mee, hee inserted and interwoove this charge into his furious Report to the Counsel of State, as an high crime against me, and fit for examination to whom hee delivered it.

Afterwards assoone as the late Parliament sate, this Report of Mr. *Fountaines* was transmitted (I doubt not but by his meanes and solliciration) to the Committee of the Parliament for Prisons and Prisoners. The same Committee the 18. of *Aug.* 1653. having the day before brought in a charge against me, which was then read.

The maine heads thereof consisted of breach of Trust, Delinquency, and Murther, which I having spoken of before, I shall at the present mention no otherwise.

The two first Charges the Parliament referred back to the Committee, and the matter of bloud, to fowr Justices of Peace for Surrey, to examine the same, and to proceed therein according to Law and Justice.

Saturday,

Saturday the 20. of August, the Committee sent for mee to the Star-Chamber, where they sate, & there delivered me a Copy of the Charge of all Referred unto them, excepting Delinquency, and appointed me to bring them such an Answer as I would stand to on Thursday the 25. following, which accordingly I obeyed, and delivered in my Answer subscribed with my Name.

The same Thursday two of the aforesayd Justices signed a Warrant to hear the cause concerning the Murther and bloud, the Munday following, at the White Lion at Lambith, where I attended with my witnesses, but *Hannah Jenks* and the rest of her malicious complices were not to be found.

I cannot omit one passage which happened there at that time, which was, that there being then present, a poor Beggar Woman, who heard somethings of the business of that meeting, and did speak some words tending to cleare my innocency, whereof the Justices being informed, they presently sent for her, and committed her to the County Goale (t'ough she totally denyed the accusation) where shee lay in great wants and misery five weeks at the least, and though she offered them often Bayle such as shee was able to procure, and made severall Petitions unto them, ex-

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preſſing her ſad condition, yet ſhee could find no mercy all that time, till by reaſon of wants of bread and other neceſſaries, ſhe fell very ſick, and was neere the inſtant of periſhing, when they conditioned to Bayle her out, but afterwards did not proſecute her at all.

Hannah Jenks and her witneſſes fayling to appear, it occaſioned another appointment, which by their Warrants dated the ſecond of September was to be on Munday after, being the fifth day, at the Bull head Tavern in Southwark; there I attended them with my Parliament Keeper, where I found Miſtriſs *Jenks*, her husband, and *James Browne*, and ſome other complices, ſuch as bribes, promiſes, and ſimilitude of wickedneſs could gather about her; where indeed her nimble tongue like a Trumpet, ſounded forth ſuch loud noyſes and falſeties (which much rewarded the buſineſſe of that day) that I began to believe that ſhe would ſweare up to the height, according to her former cuſtome, that my innocency (how white ſoever) might be clouded by her oaths.

But this day wee were put off and adjourned to the ſame place on Friday following, where Mrs. *Jenks* with her tribe fayled not. They were called preſently in by the Juſtices, and were private with them almoſt all the afternoone, under a pretence of being examined, though there be very great

great reason to believe that they were not then examined at all, but only asked questions on a presented paper which was sent unto them from Mr. *Fountayne*, which was the rather believed, in regard he that was pretended there to be the Clark that writ, and to have taken the Examinations, could hardly read them when they were put into his hand for that purpose. But howsoever, mee thinks, this privacy was not consonant to the old Law of England, which in cases of Life, brings Witnesses face to face, and admits crosse Examinations, the Law being most especially tender of Life, and never intending that should bee taken away without all possible Defence of the accused party.

But at length (to give the Divell his due) I having attended on this secret Conference all the Afternoon, my Sister and witnesses were called in, and those I brought were such as I doubted not, would convince the Justices of the falsity of the testimony against mee, and cleare mee of the crime.

But I no sooner entred, but I found a Warrant signed and sealed by the Justices, for my Commitment to the County Goale, which my Keeper opposing (as in right he ought) they threatned to imprison him, and called for a Constable to carry me away. But none being then present, they better

to game time while they could get one, (wherein they neglected no diligence) they yeelded to hear two Witnesses on my side, whose testimony was sufficient to have satisfied them. But still they forget not with all earnestnesse to call for a Constable to Hurry mee away. But at last upon much entreaty, almost upon the knees of some of my children then present, they prevayled with them to read the Parliament and Armies Votes, before expressed, about the businesse, whereby they were Voted false Accusers, and to have corporall punishment. And thereupon with much adoe and great difficulty, they yeelded and consented to take Bayle.

And heere I cannot but note by the way, the mercy and regularity of these men, who at the same time did, (what Nature cannot doe) splitt me into a double Prisoner, a Prisoner I was to the State, under custody of the Supream Power, preceding theirs, and yet during that time they made a *mittimus*, and would have sent mee to the Common Goale of the County, which may bee conceived a high presumption to take mee from the Parliaments immediate Officer, and send mee to another Prison, without their leave or privity.

Observe by the way, heere is a Warrant signed without examination of the party accused.

Next

Next the Justices offer to take a Prisoner out of the hands of that power by whose Commission they sate.

And lastly, notwithstanding the mallice and falsity of these Prosecutors appeared by the Votes of Parliament and Army, they Bayled me after they had made a *mittimus* to commit mee for Murther.

On Tuseday the 30. of August I was sent for againe to the Committee of Parliament at the Star-Chamber, who there Examined Witnesses to proove their Charge against mee; as they did also on Saturday following: At which time I was injoyned to bring in proofes to justifie and maintaine my Answer.

On the 8. of *September* following I brought my former answer, wherein I quoted the objections made against mee in my charge, and to every particular put in a distinct answer, with the names of the witnesses in the margent which were to prove the same.

But I should have told you before, that during the examination of witnesses against mee, *Freeze* & *Hannah Jenks* were the chief, who were so transcendently malicious, that they swore at any thing they thought might prejudice me: for *James Freeze*, who

who was one chiefe witnesse was there in the face of the Court proved to have sworne false in two of his Testimonies, whereupon I excepted against them, as witnesses invallid, and their evidence not to be taken for that they had formerly in their prosecution against mee, beene voted by the former Parliament false accusers, and to have corporall punishment, with which vote the Counsell of Officers of the Army afterwards concurred, upon a new complaint made to them by those wretched creatures, whose malice was unquenchable and restles.

My exception to them after some debate was allowed good, for that they who would sweare falsely in one thing may doe it in another.

And you may guesse by this, that if the chiefest prosecutors and witnesses, were of this stampe, that the other by them procured and suborned, were not of a much better allay, as hereafter wee shall have occasion to instance.

But see the insecurity and impudency of wickednesse and the constant though unexpected protection that Divine providence ever provides for innocency, though what hath beene before alleadged might have sufficiently invalidated their Testimony and Credit before any Court of Justice, yet it pleased God for further discovery of their impious plot against me to stir up the spirit of one

Mr.

Mr. *Francis Anguish* who [illegible] auditor of their violent prosecutions of [illegible] declare the truth; Which was, that he being a Prisoner in the Fleet *Anno* 1649. at which time *Freeze* was then also Prisoner there, hee often heard the sayd *Freeze*, *Jenks*, and others, plot together against Sir *John Lenthall*, and conclude, that they would indevour to hang him, if they could, by accusing him of Murthering and Poysoning of Prisoners. But if they could not prevaile, to take away his life, then they would accuse him of Delinquency against the State, and by that meanes *Freez* and the rest would get a share of his estate, and that they made no question, but to bring their plots to passe when the time should serve, and a new Parliament should sit. Which evidence Mr. *Anguish* justified upon oath to the Committee; who examined him upon what grounds, or upon whose instigations he came thither to evidence for Sir *John Lenthall*? who answered that he being present at a former examination before them, and hearing the said *Freeze* and *Jenks* so to prosecute him, according to their former combinations and conspiracies, he could not in conscience but declare the truth of that which hee had formerly heard and knowne them to conclude. But hee averd, as truth was, that he never had any reference to Sir *John Lenthall*, nor was never mooved to give this Testimony by any but his owne conscience; and besides Mr. *Anguish* severall other witnesses justified

fled their unjuſt endeavours and falſe accuſations againſt Sir *John Lenthall*; and as theſe fiery triallş have already cleared me, ſo I doubt not, but time the mother of truth, will make it more appeare. But Mr. *Fountayns* malice was of a harder mettall then to be blunted with all this; for of a Judge (as he formerly took it upon him) hee was now become a Sollicitor, dayly attending, incenſing, and informing the Committee againſt mee: and his ſpite was ſo ſucceſſefull, that hee prevayled to have Bills poſted up at Weſtminſter Hall Gate, and other places, inviting all that had any Complaint againſt mee, to repaire to the Committee where they ſhould be heard.

I was commanded to attend the Committee two or three dayes every week, from Auguſt, till the beginning of December following. By which time they had received, heard, and conſidered all accuſations and complaints which malicious enemies, or ſuborning ſuggeſtors, could bring or procure: and the Committee were ready to draw up their Report and to make it to the Houſe, of all their proceedings herein with all poſſible ſpeed, but the Parliament reſigning their power the 12. day of December, into the hands of his Highneſſe the Lord Protector, I was plunged into a gulfe of miſery, as never any diſtreſſed perſon was. The power that layd mee in Priſon and ſequeſtred my eſtate, they were diſſolved. Thoſe that had mee

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in Custody, neyther would, nor could release me: I was at a stand, and amazed: Remedy and Relieſe I knew of none; yet notwithstanding, some worthy and conscientious men of the Committee taking my sad condition into their pious considerations, whereof the Chayrman was one, though they had resigned their power, yet were pleased for conscience and truths sake, to declare their Judgements and Opinions, by a Certificate under their hands, bearing date the 6. of January 1653. wherein they did certifie, That the Charge against Sir *John Lenthall* in Parliament, consisted of three severall heads. The first, for Escapes of Prisoners. The second, for Delinquency. The third, for Murther.

For the Escapes, they Certifie to have beene very few, in respect of the great clamours made against him; and that those were meere matter of Law, and properly triable, and determinable there.

For the Cause of Delinquency, they Certifie, That by the Judgement of the former Parliament, 15. September 1645. the same was resolved scandalous, and the Prosecutors in that Cause to deserve exemplary punnishment; which Votes of Parliament were after confirmed, by the Votes of the Councel of the Army 1649. upon the prosecution of the Persons and Witnesses in the for-

mere Complaint, and we find nothing in proofe to the contrary.

For the murther, We judge that Charge to be most malicious against Sir *John Lenthall*, and that he is innocent of any such crime, and we do conceive the said Charge to have been prosecuted with much malice against him; and the testimony of the Witnesses to be altogether invalid; to which Certificate they subscribed their names.

I being left thus destitute and disconsolate without my liberty restrained in Prison, and deprived of my Estate; and consequently of all subsistance, It pleased God to prepare means to turn my mourning into joy, by putting the civill Sword into my Lord Protectors hand, I addressed my self unto his Highness by my Petition, and had the happiness to be one of the first fruits of his justice, who immediatly referred it to his honourable Councel, they with the like dispatch appointed foure of themselves a Committe to heare and examine my Cause, by whose command I attended on Monday the 16. of *January* where they tooke the business into consideration, and with much integrity, Justice, and prudence, examined the state of my accusation, as it stood before the late Parliament. So conscienctious and scrupulous they were, that they not only deliberately perused all the Papers that I produc'd, but most judiciously (as intending

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ding to heare at both eares) sent for all the Notes and Examinations which remained in the hands of the Clerke of the Committee of Parliament, by which they might be truly instructed of all accusations and informations against mee, which the Clerk accordingly brought in, and upon a through and mature consideration thereof, those honourable persons were pleased (after they had with great diligence and patience perused and examined all that could be said for or against me) to make their Report to the Councell the 24. of *January* how they found the State of the businesse.

The Lords of the Counsell debating the businesse upon the Report ordered the 27. of the said *January*, that it should be referred to the Lord Chiefe Justice *Roll*, and to other Justice or Justices of the Upper Bench, to examine all Complaints against Sir *John Lenthall*, so as the same may be determined in a legal way, & therby they were required to take such course for disposing the custody of the Prison and Prisoners as may be most secure and advantagious for the Creditors, and is agreeable to Law and Justice: and certainly if that way had been thought of before, Serjeant *Dendy* had not now had so many Escapes brought against him, nor so many men in all probabilities endangered of so many considerable Debts, nor my selfe have had severall Declarations brought against me for Escapes made and suffered in Serjeant *Dendy's* time

when hee was poſſeſſed of the Priſon.

By Vertue of the Order of the Counſell, the Lord chiefe Juſtice, and Mr. Juſtice *Aske*, ſummoned Serjeant *Dendy* and my ſelfe to appeare before them on Munday the 30 of *January*, where wee both attended with our Counſell, and after a full debate and examination of our reſpective intereſts and titles in the ſaid Office, His Lordſhip and Mr. Juſtice *Aske* were both pleaſed to declare that Sir *John Lenthall* had a good title in Law, which neither Serjeant *Dendy* nor his Counſell either did or could denie.

Thereupon the Lord chiefe Juſtice and Mr. Juſtice *Aske* did make their Certificate to the Lords of the Counſell, Dat. the 13 of *Febru* 1653. that upon hearing Counſell of both ſides, they found that Sir *John Lenthall* had a good title, which Serjeant *Dendy* did not deny, and that they were informed and it was confeſſed by both parties, that divers Priſoners, who were in Priſon, when Serjeant *Dendy* firſt entred into the cuſtody of the Priſon, are now abſented, to the great prejudice of their Creditors, and diſhonour of the Law, and of the Upper Bench in perticular, wee have thought fit to ſettle Sir *John Lenthall* in the Office of the cuſtody of the Priſon and Priſoners, which courſe wee conceive to bee moſt ſecure and advantagious for Creditors, and moſt agreeable to Law and Juſtice.

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The Judges did alſo declare in open Court the 11 of *February*, that the Lord Protector and his Counſell had appointed them by their order to heare any complaints againſt Sir *John Lenthall*, ſo that they might bee determined in a legall waye, and that they alſo required them to ſettle the cuſtody of the Priſon and Priſoners, according to Law and Juſtice; and therefore they did declare Sir *John Lenthall*, to bee Marſhall, and admitted him to ſit in Court, and to take the cuſtody of the Priſon, and Priſoners pon him, and ordered a Rule of Court to bee entred to that purpoſe which was done accordingly. By vertue whereof I was poſſeſſed of my Office and livelihood, and after ſome ſtrugling with Serjeant *Dendy* was ſuffered quietly to enjoy it. And I cannot but heere acknowledge and extoll Gods wonderfull and abundant goodneſſe, who out of the depth of his mercy, looked upon mee in the depth of my miſeries, and out of the ſtrength of his power delivered mee from the malice of my potent enemies who were ready to devoure me and ſwallow me up.

Rationall and conſcientious men might thinke this had beene enough to have cleared any man: the Law (which I ever threw my ſelfe upon, and the Law is the ſupreame directory and definitive ſentence of all our actions) had reinveſted mee into that which was my owne propriety, and would have inflicted a condigne puniſhment upon mee

in any thing wherein I had offended.

That honourable Court of the Upper Bench had power to take cognisance of any offences I should commit, whose eares are ever open to heare and relieve the injured and oppressed, which might have incited my adversaries to have complained there, whose mouths were not stopped in seaven yeares before from thundring out their false clamours against me in all places. But behold the insatiable malice which my wicked adversaries bore against mee (which will lie like burning coales on their owne heads) ended not heere, my estate and inheritance had stood their shock. But by Gods protectiō they could not shake it, therfore their wicked spirits must now rove higher; they conspire to strike at my life againe, and endeavour to wash their hands in my blood.

And indeed it was one of the most accursed pieces of wickednesse in all the world, to endeavour to plunge mee into such infamy, who have lived, as I hope, in honest repute in my Countrey, that have seene many children and childrens children, that have beene thought worthy by the highest powers to bee imployd in all commissions, and almost all Committees in the County, where I have dwelt so long, and sate upon the Bench there, to bee brought to bee tryed at that Bar where I had so long sate, and into the danger of so shamefull an

end as our Law ordayned for Murther; and to say more, the Divine Law threatens for this offence, I heartily wish it may not fall heavy upon the heads of my accusers and prosecuters.

But now the Assises begin in Southwarke, I appeared there according to my Bond, but no prosecutors shewing themselves, I desired they might be called and their Recognisances might be returned, which the Court granted, and so called them, whereupon one witnesse appeared whose name was *Robert Ellis*, upon whose Testimony it was supposed the whole manifestation of the businesse would lie: this man being urged by the Court to prefer his Bill of Indictment against me, he openly professed he knew nothing against mee, and could not tell how to preferre a Bill, and so refused to prosecute, saying further, that hee was inforced by the Justices to whom the Parliament referd it to enter into Bond, otherwise he should not have done it.

Edward Jenks another of these Witnesses, and one of the chiefe contrivers of this plot also appeared, who being required to prefer a Bill, hee told the Court that he came not to prefer any Bill, but was assured by Mr. *Blackwell*, one of the Justices then sitting upon the Bench, that an Indictment should be drawne, and preferred, and cost him nothing, and that he and the other Justices requested him to prosecute, which he refused to doe.

Thereupon

Thereupon hee was ſo impudent to tell the Juſtice to his face in the open Court, that he threatned him to ſend him to the Goale, and was ready to doe it, if hee refuſed to bee bound to proſecute, the fear wherof compelled him to be bound.

But ſee the bold ſpirits of theſe men, who durſt charge ſo fowle, unjuſt, and malicious a matter, in open Court, upon a Juſtice then preſent, and ſitting upon the Bench. But the Judge required *Jenks* eyther to prefer a Bill, elſe he ſhould forfeit his Recogniſance; hee denied it, and plainly anſwered, that hee knew nothing of his own knowledge againſt me, and that hee was compelled by the Juſtices to doe what he did, and that his proſecution was meerly by their command.

Upon this the Court commanded the Clerk of the Aſſizes to draw up an Indictment, and ordered *Jenks* to give Inſtructions, which was done as far as their Evidence would bear, But *Jenks* diſliked it. The Judge commanded him to goe to any of his own Counſell, but hee did not doe it, neyther as was conceived could he finde any matter to ground an Indictment upon, and ſo none was preferred: whereupon I was acqitted by Proclamation the laſt morning before the Aſſiſes were ended and adjourned

I having ſuffered ſuch an infamy and diſgrace, I conſidered

considered with my selfe and Counsell, which way to redeem and vindicate my wounded credit and reputation. And for that end I was advised to Indite the Prosecutors for Conspiracy against my Life, at the next Quarter Sessions holden for the County of Surrey, which I accordingly did. The Bill was found against them all, and they stand convicted.

And that every one might see what kinde of people they are, I shall tell you that since those proceedings, *Freeze* being imployed in some place about the Excise Office, hee hath beene put out thereof, being convicted of bribery, and deceiving the State; *Oliffe* and *Magewick* have beene since convicted and sentenced for bribery and perjury, at the suit of other men.

But I cannot omit to expresse some passages of Mr. *Fountayne*, which came lately to my hands from Mrs. *Jenks*, and Mrs. *Somerscall*, in a paper which they sent mee the first of August 1654. by them subscribed, wherein they directly expresse that they were urged with great earnestnes by Mr. *Fountayn* to prosecute me, which they refused to do, yet Mr. *Fountayn* was restlesse, & could not be satisfied till he compelled them to come in; for which purpose he meeting Mrs. *Somerscall* in Westminster Hall, one Saturday evening (for these are the words of the Certificate) hee asked where is Mrs. *Jenks*

and commanded her to tell her that wee have been in jeſt with Sir *Johns* buſineſs all this while, but now we will go on with it in earneſt, which he ſo proſecuted, that hee got an Order from the Committee, for the Witneſſes to go into Surrey, which they refuſed to doe; then Mr. *Fountayne* ſayd to the Committee, wee muſt force the Witneſſes to goe into Surrey, or elſe wee ſhall never cut him off. Behold the greedineſs of this bloud-thirſty man, who when he could find no Witneſſes that could or would proſecute, he would raiſe ſome up, and compell them. Oh! I cannot but wonder how this mans heart contracted ſuch an unparalleld malice againſt me, who never had difference with him, but often retained him in the courſe of his practiſe as my Counſell, and eſteemed him as my friend. And truly I cannot in charity but bee ſo much his friend ſtill, as to pray to God that the judgment pronounced againſt bloud-thirſty men, may not fall upon him.

The 22 of *Auguſt* 1654 *Hannah Jenks* ſent another Paper unto mee to this effect, that whereas, ſhe had formerly proſecuted me with divers accuſations of ſome Capitall crimes and offances, theſe are to certifie that ſhe received the notion of them from others informations, and by their onely procurement and inſtigation did purſue thoſe allegations againſt Sir *John Lenthall*. But inſomuch that they do not lie in my proper and peculiar know-

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ledge, I doe heerby utterlie renounce and abjure all farther profecutions and proceedings againſt him, to which Paper ſhe ſubſcribed her name before credible witneſſes. And theſe are the perſons that led up the chiefe place in my ſeverall accuſations, and by theſe you may eaſily gueſſe the reſt.

I have heere preſented the large heapes of my diſaſters and troubles, my Priſon thoughts and Priſon experiences; I had infinite afflictions and yet infinite comforts, light out of darkeneſſe, and joyes out of ſorrowes; the Lord manifeſted himſelfe to mee in my ſeceſſions and impriſonment, which was but a ſequeſtration from the world, that I might the more converſe with God, and this done hee manifeſted his glory and power in delivering mee from the Jawes of the Lyon and Lyons whelps. I had in all my troubles a ſtrong truſt and confidence in my God who hath drawne mee out of many waters and through a braſen wall. To him I referre my ſelfe, vengeance is his, and he will repay it, and if man ſhall not thinke fit to make me ſatisfaction for theſe wrongfull expreſſions (which I hope they will) yet they are in Gods hands, to whoſe providence and protection I wholy referre my ſelfe; for the Lord is my ſtrength and my ſhield, my heart truſted in him and I was helped, therefore my heart ſhall rejoyce, and with my ſong will I prayſe him.

FINIS.